

### **REMARKS**

This paper responds to the Office Action mailed on March 5, 2009.

Claims 1, 7, 14, 18, 25, 52, and 53 are herein amended. Claims 5 and 26-40 remain canceled, and no claims are added. As a result, claims 1-4, 6-25, and 41-53 are now pending in this application.

#### **§ 101 Rejection of the Claims**

Claims 25 and 52 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. With respect to claim 25, the Office Action required correction to claim a single statutory class of subject matter.<sup>1</sup> Claim 25 is herein amended to use “means for” language consistently in the body of the claim. As a result, claim 25 is corrected to claim a single statutory class of subject matter. Thus, the Applicants respectfully request that this rejection be withdrawn and the claim be allowed.

With respect to claim 52, the Office Action required correction to recite “a tangible embodiment containing instructions necessary to cause a computer to execute the claim processes.”<sup>2</sup> Claim 52 is herein amended for clarification purposes to recite, in part, “a listing module ***implemented by at least one processor*** of the system ***and configured by instructions stored in a memory*** of the system.”<sup>3</sup> Subject matter supporting this amendment may be found in Applicants’ specification, at least in Figure 21 and paragraphs 0102-0103.<sup>4</sup> As a result, claim 52 is corrected to recite a tangible embodiment, namely, a system including a module that is implemented by at least one processor and configured by instructions stored in a memory. Thus, the Applicants respectfully request that this rejection be withdrawn and the claim be allowed.

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<sup>1</sup> Office Action, page 3.

<sup>2</sup> *Id.*

<sup>3</sup> Claim 52, emphasis added.

<sup>4</sup> Specification, FIG. 21 and paragraphs 0102-0103 (“a computer ***system*** 400 within which a set of instructions, for causing the machine to ***perform any one of the methodologies discussed above***, may be executed.”), emphasis added.

§ 112 Rejection of the Claims

Claims 25 and 52 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. With respect to claim 25, the Office Action required correction to correct statutory class ambiguity.<sup>5</sup> As noted above, claim 25 is corrected to claim a single statutory class of subject matter. Thus, the Applicants respectfully request that this rejection be withdrawn and the claim be allowed.

With respect to claim 52, the Office Action required correction of “modules defined as software.”<sup>6</sup> As noted above, claim 52 is corrected to recite a tangible embodiment. Thus, the Applicants respectfully request that this rejection be withdrawn and the claim be allowed.

§ 103 Rejection of the Claims

Claims 1-3, 6-10, 12, 14-22, 24-25, 46-48 and 53 were rejected under 35 U.S.C. § 103(a) as being obvious over Nemzow (U.S. Patent No. 6,721,715) in view of Lassila (PTO-892, Item U, hereinafter “Lassila”) further in view of eBay (Paper #20070530, hereinafter; “eBay”). A determination of obviousness requires a factual showing that “the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”<sup>7</sup>

Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined.<sup>8</sup>

Applicants respectfully submit that a determination of obviousness is not established for the reason that the scope and content of the cited references, even if combined, do not teach or suggest Applicants’ claimed subject matter or support rational inferences that one skilled in the art reasonably would be expected to draw to reach Applicants’ claimed subject matter.

Each of independent claims 1, 7, 14, 18, 25, 52, and 53 recites, in part, “***generat[ing] a map file*** storing a first plurality of records . . . storing ***summarizing information for*** a first

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<sup>5</sup> Office Action, page 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Graham v. John Deere*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966).

<sup>8</sup> *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 U.S.P.Q.2d 1385 (2007).

plurality of *offerings*.”<sup>9</sup> Nothing in the cited references, taken singly or in combination, discloses *generating a map file* storing records that store *summarizing information for offerings*, as recited in the independent claims.

In support of the § 103 rejections, the Office Action asserted that “Nemzow omits discussion pertaining to *metadata* and *mapping* techniques for electronic documents searching, [but] Lassila teaches more precise means of describing documents . . . .”<sup>10</sup> The Office Action cited Lassila as discussing that “[*m*]etadata can describe the contents of an individual Web resource . . . or the content of a collection Web site,”<sup>11</sup> and states that this is “evidence of *mapping* technique.”<sup>12</sup> The Office Action further cited Lassila as describing that “[s]earch engines could take advantage of *metadata* . . . to perform more accurate searches.”<sup>13</sup> The Office Action concluded that,

One of ordinary skill in the art at the time the invention was made would have recognized that applying the known techniques of Lassila’s use of *metadata* as a *summary of a first plurality of offerings* to improve searching of the *metadata*’s content (i.e. a second plurality of offerings) and use of mapping would have yielded predictable results and resulted in an improved [version of Nemzow’s] system.<sup>14</sup>

However, an abstract discussion of *metadata*, such as the discussion in Lassila, does not disclose *summarizing information for offerings*. Furthermore, a vague discussion of *mapping* techniques fails to disclose *generating a map file*.

Although the Examiner may interpret claims as broadly as their terms reasonably allow, “during examination proceedings, claims are given their broadest reasonable interpretation *consistent with the specification*.”<sup>15</sup> Applicants’ specification explicitly defines “*offerings*” as “any *offering by a seller to a buyer*, and this term should be understood to include, but not be limited to, any *product or service offering*.”<sup>16</sup> In contrast, Lassila states that “[*m*]etadata is commonly defined as *data about data*, [and] we [Lassila] define [Web metadata] as *machine-*

<sup>9</sup> Claims 1, 7, 14, 18, 25, 52, and 53, emphasis added.

<sup>10</sup> Office Action, page 8, emphasis added.

<sup>11</sup> *Id.*, emphasis added.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*, emphasis added.

<sup>14</sup> *Id.*, at page 9, emphasis added.

<sup>15</sup> *In re Hyatt*, 211 F.3d 1367, 1372, 54 U.S.P.Q.2d 1664, 1667 (Fed. Cir. 2000), citing *In re Graves*, 69 F.3d 1147, 1152, 36 U.S.P.Q.2d 1697, 1701 (Fed. Cir. 1995), emphasis added.

<sup>16</sup> Specification, paragraph 0019, emphasis added.

*understandable descriptions of Web resources.*<sup>17</sup> “The *resources* . . . are generally *anything that can be named with a Uniform Resource Identifier (URI)*, the class of Web identifier that includes the common URL.”<sup>18</sup> The *metadata* of Lassila is not *offered by a seller to a buyer*. Nothing in Lassila states that either *data* or Web *resources* are *offered by a seller to a buyer*. Hence, it would not be consistent with Applicants’ specification to interpret *summarizing information for offerings* as functionally equivalent to either *data about data* or *machine-understandable descriptions of anything that can be named with a [URI]*. Therefore, discussion in Lassila of *metadata* fails to disclose *summarizing information for offerings* or any functional equivalent thereof.

Furthermore, nothing in Lassila discloses *generation of a map file*. While Lassila briefly mentions “site *maps*” as “[*d*]escriptions of typically complex collections, especially those of Web sites,”<sup>19</sup> Lassila is silent with respect to a *map file*, much less *generating a map file*. Indeed, Lassila contains no discussion of file generation at all. As a result, Lassila fails to disclose *generating a map file* storing records that store *summarizing information for offerings*, as recited in the independent claims.

The elements shown above to be missing from Lassila are similarly absent from both Nemzow and eBay. Nemzow is directed to “a currency translation system”<sup>20</sup> and contains no mention of *generating a map file* storing records that store *summarizing information for offerings*. eBay is a collection of archived web pages; eBay also fails to mention *generating a map file* storing records that store *summarizing information for offerings*.

For at least these reasons, the scope and content of Nemzow, Lassila, and eBay, even if combined, do not teach or suggest Applicants’ claimed subject matter or support rational inferences that one skilled in the art reasonably would be expected to draw to reach Applicants’ claimed subject matter. As a result, a determination of obviousness is not established with respect to independent claims 1, 7, 14, 18, 25, 52, and 53, and their respective dependent claims. Thus, Applicants respectfully request that these rejections be withdrawn and the claims be allowed.

<sup>17</sup> Lassila, page 2, emphasis added.

<sup>18</sup> *Id.*, at page 4, emphasis added.

<sup>19</sup> *Id.*, at page 3, emphasis added.

<sup>20</sup> Nemzow, paragraph 0032.

Claims 4 and 52 were rejected under 35 U.S.C. § 103(a) as being obvious over Nemzow in view of Lassila and eBay as applied to claim 1, further in view of “Applicants’ Admission.” As discussed above, the scope and content Nemzow, Lassila, and eBay do not disclose ***generating a map file*** storing records that store ***summarizing information for offerings***, as recited in independent claims 1 and 52. The addition of the cited document referred to as Applicants’ Admission does not cure the deficiencies of Nemzow, Lassila, and eBay noted with respect to claim 1. Accordingly, Applicants respectfully submit that independent claim 52 and dependent claim 4, which depends from independent claim 1, are not obvious over Nemzow, Lassila, eBay, and the cited document referred to as Applicants’ Admission. Thus, Applicants respectfully request that these rejections be withdrawn and the claims be allowed.

Claims 11 and 23 were rejected under 35 U.S.C. § 103(a) as being obvious over Nemzow, Lassila and eBay as applied to claims 1, 8 and 20, further in view of McClenahen (Paper #20070530, hereinafter “McClenahen”). As discussed above, the scope and content Nemzow, Lassila, and eBay do not disclose ***generating a map file*** storing records that store ***summarizing information for offerings***, as recited in independent claims 7 and 18. The addition of McClenahen does not cure the deficiencies of Nemzow, Lassila, and eBay noted with respect to claim 1. Accordingly, Applicants respectfully submit that claim 11, which depends from independent claim 7, and claim 4, which depends from independent claim 18, are not obvious over Nemzow, Lassila, eBay, and McClenahen. Thus, Applicants respectfully request that these rejections be withdrawn and the claims be allowed.

Claim 13 was rejected under 35 U.S.C. § 103(a) as being obvious over Nemzow, Lassila and eBay as applied to claim 7, further in view of Pollick (Paper #20041209, hereinafter “Pollick”). As discussed above, the scope and content Nemzow, Lassila, and eBay do not disclose ***generating a map file*** storing records that store ***summarizing information for offerings***, as recited in independent claim 7. The addition of Pollick does not cure the deficiencies of Nemzow, Lassila, and eBay noted with respect to claim 1. Accordingly, Applicants respectfully submit that claim 13, which depends from independent claim 7, is not obvious over Nemzow,

Lassila, eBay, and Pollick. Thus, Applicants respectfully request that this rejection be withdrawn and the claim be allowed.

Claims 41-45 and 49 were rejected under 35 U.S.C. § 103(a) as being obvious over Nemzow, Lassila and eBay as applied to claim 1. As discussed above, the scope and content Nemzow, Lassila, and eBay do not disclose *generating a map file* storing records that store *summarizing information for offerings*, as recited in independent claim 1. Applicants respectfully submit that claims 41-45 and 49, which depend from independent claim 1, are not obvious over Nemzow, Lassila, and eBay for at least the same reasons as those provided for claim 1. Thus, Applicants respectfully request that these rejections be withdrawn and the claims be allowed.

Claims 50-51 were rejected under 35 U.S.C. § 103(a) as being obvious over Nemzow, Lassila and eBay as applied to claims 1 and 49, further in view of Faulkner (U.S. Patent No. 6,389,427). As discussed above, the scope and content Nemzow, Lassila, and eBay do not disclose *generating a map file* storing records that store *summarizing information for offerings*, as recited in independent claim 1. The addition of Faulkner does not cure the deficiencies of Nemzow, Lassila, and eBay noted with respect to claim 1. Accordingly, Applicants respectfully submit that claims 50-51, which depend from independent claim 1, are not obvious over Nemzow, Lassila, eBay, and Faulkner. Thus, Applicants respectfully request that these rejections be withdrawn and the claims be allowed.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4048 to facilitate prosecution of this application.


If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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By

  
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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 5th day of June, 2009.

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